



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 15, 1994

Mr. Nathan B. Rheinlander
Comal County Attorney
150 N. Seguin, Suite 318
New Braunfels, Texas 78130

OR94-353

Dear Mr. Rheinlander:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 24618.

You advise that the Comal County Sheriff's Department has received a request for the department's reports on a death. You note that, as there is no ongoing investigation of the matter, the department determined that there was no basis in the Open Records Act for withholding most of the requested material, and that "[t]he main body of the report, . . . is in fact being furnished to the requestor." You ask, however, whether portions of the report which were provided by the police department of the City of Flower Mound may be withheld under section 552.111 of the act, which allows withholding of an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency."

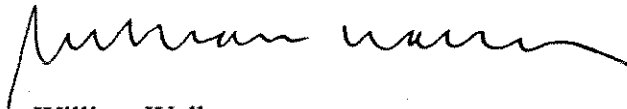
In reconsidering the scope of the section 552.111 exception, Open Records Decision No. 615 (1993) concluded that the section excepts only those memoranda which consist of "advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body at issue." Open Records Decision No. 615 at 5. Having examined the material you seek to withhold

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

under section 552.111, we question whether it could reasonably be characterized as advice, opinion, or recommendation, and in any case do not believe that the material can be said to pertain to the policy making functions of the department, under the Open Records Decision No. 615 test. Therefore, you must release the information in question.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'William Walker', with a long horizontal flourish extending to the right.

William Walker
Assistant Attorney General
Open Government Section

WMW/LRD/rho

Ref.: ID# 24618

Enclosures: Open Records Decision No. 615
Submitted documents

cc: Ms. Jo Foster
Insurance Investigations
P.O. Box 0010
Richmond, Texas 77406-0010
(w/o enclosures)